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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, JULIEANNA  
 MUNIZ, ELIZA CAMBAY, SAL  
 CATALDO, EMIR GOENAGA, JULIAN  
 SANTIAGO, HAROLD NYANJOM,  
 KELLIE NYANJOM, and SUSAN LYNN  
 HARVEY, individually and on behalf of all  
 others similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688

**PLAINTIFFS' MOTION FOR LEAVE  
 FILE A SURREPLY IN OPPOSITION TO  
 GOOGLE'S MOTION TO DISMISS THE  
 FIRST AMENDED COMPLAINT**

The Honorable Richard Seeborg  
 Courtroom 3 – 17th Floor  
 Date: March 4, 2021  
 Time: 1:30 p.m.

Pursuant to Civil Local Rule 7-11, Plaintiffs respectfully request this Court's permission to file a Surreply in opposition to Google LLC's ("Google") Motion to Dismiss the First Amended Complaint. This relief is warranted because Google's Reply in Support of Motion to Dismiss First Amended Complaint (Dkt No. 82), which was filed on February 4, 2021, raised three new arguments that were not included in Google's initial brief (Dkt No. 62). *See In re PersonalWeb Techs., LLC*, No. 18-MD-02834-BLF, 2019 WL 1975432, at \*1 (N.D. Cal. Feb. 6, 2019) ("When a party 'raises a new argument or presents new evidence in a reply brief, a court may consider these matters only if the adverse party is given an opportunity to respond.'" (quoting *Banga v. First USA, NA*, 29 F. Supp. 3d 1270, 1276 (N.D. Cal. 2014))).

Google's three new arguments are (1) that Plaintiffs' theory of the case has "pivoted" away from the allegations in the FAC (Dkt No. 82 at 2); (2) that Plaintiffs' claims trigger Federal Rule of Civil Procedure 9(b)'s heightened pleading standard (*id.* at 4-5, 11, 14); and (3) that Firebase SDK is not a Google "service" as defined by Google's Privacy Policy (*id.* at 9).

Plaintiffs' proposed Surreply is attached hereto as Exhibit A.

Google has informed Plaintiffs that it intends to oppose this Motion. Exhibit B is a Declaration from Alexander P. Frawley explaining that the parties could not reach an agreement on this Motion.

Dated: February 17, 2021

Respectfully submitted,

By: /s/ Amanda Bonn  
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